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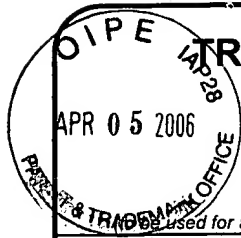
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)		Application Number	09/296,676
		Filing Date	April 22, 1999
		First Named Inventor	Devon David Cullum
		Art Unit	2635
		Examiner Name	B. Zimmerman
Total Number of Pages in This Submission	11	Attorney Docket Number	2269-7035US (96-0783.00/US)

ENCLOSURES (check all that apply)			
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Reply Brief in response to the Examiner's Answer dated February 7, 2006 <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) ____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):	Remarks The Commissioner is authorized to charge any additional fees required but not submitted with any document or request requiring fee payment under 37 C.F.R. §§ 1.16 and 1.17 to Deposit Account 20-1469 during pendency of this application.
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Serial No. 09/296,676

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Devon David Cullum

Serial No.: 09/296,676

Filed: April 22, 1999

For: ANTI-THEFT SYSTEM AND
APPARATUS AND METHOD FOR
SELECTIVELY DISABLING/ENABLING
ELECTRICAL APPARATUS

Confirmation No.: 8733

Examiner: B. Zimmerman

Group Art Unit: 2635

Attorney Docket No.: 2269-7035US
(96-0783.00/US)

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REPLY BRIEF

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Attention: Board of Patent Appeals and Interferences

Sirs:

This Reply Brief is submitted pursuant to 37 C.F.R. § 41.41 in response to the Examiner's Answer mailed February 7, 2006. This Reply Brief is submitted within two months of the mailing date of the Examiner's Answer pursuant to 37 C.F.R. § 41.41(a)(1).

APPELLANTS' REPLY TO EXAMINER'S RESPONSE TO ARGUMENT

As set forth in detail in Appellants' Appeal Brief, Appellants maintain that the Examiner has failed to establish a *prima facie* case of obviousness because the cited references do not teach or suggest all of the claim limitations of Applicant's invention as claimed nor has the Examiner provided a motivation to combine the cited references to produce the claimed invention. The motivation to combine proposed by the Examiner is improper and, therefore, does not establish a *prima facie* case of obviousness.

Rejection of Claims 2-5, 7-25, 35, 36 under 35 U.S.C. § 103

Claims 2 through 5, 7 through 15, 19, 20, 35 and 36 stand rejected under 35 U.S.C. § 103(a) over Isikoff (U.S. Patent No. 5,748,084) in view of Bishop (U.S. Patent No. 6,664,888) and further in view of either Sharpe (U.S. Patent No. 6,094,146) or Chan (U.S. Patent No. 5,850,445).

Claims 16 and 17 stand rejected under 35 U.S.C. § 103(a) over Isikoff (U.S. Patent No. 5,748,084) in view of Bishop (U.S. Patent No. 6,664,888) and further in view of either Sharpe (U.S. Patent No. 6,094,146) or Chan (U.S. Patent No. 5,850,445) as discussed above regarding claims 11 and 15 and yet further in view of Sheffer (U.S. Patent No. 5,515,419).

Claim 18 stands rejected under 35 U.S.C. § 103(a) over Isikoff (U.S. Patent No. 5,748,084) in view of Bishop (U.S. Patent No. 6,664,888) and further in view of either Sharpe (U.S. Patent No. 6,094,146) or Chan (U.S. Patent No. 5,850,445) and yet further in view of Glenn (U.S. Patent No. 5,406,261).

The teachings of the cited references are as summarized on Appellant's Appeal Brief.

Appellant respectfully re-recites the specific language of the claims as presently presented in view of apparent paraphrasing in the Examiner's Answer. Applicant's invention as presently claimed in, for example, representative claim 35 recites:

35. An anti-theft device cooperatively operable with normal utilization circuits within an electronic apparatus, comprising:
- a remote intelligent communication (RIC) unit configured for *enablingly coupling with the normal utilization circuits*, the RIC unit, including:
 - a control circuit including:
 - a memory configured to receive and store therein a unique identifier of a specific one of the electronic apparatus;
means for inputting the unique identifier into the memory at a point of sale; and
 - a transceiver configured to at least receive a signal;
and
 - a shut-off unit configured for *entering a shut-off state* and disabling operative power via a shut-off signal to the normal utilization circuits *in response to receipt of the signal* via the transceiver of a shut-off command *designating the unique identifier* stored in the RIC unit. (Emphasis added.)

Specifically, Applicant's invention as presently claimed in representative claim 35 recites, "a remote intelligent communication (RIC) unit configured for *enablingly coupling with the normal utilization circuits*, ...and a shut-off unit configured for *entering a shut-off state* and disabling operative power via a shut-off signal to the normal utilization circuits ...".

The Examiner's Answer appears to acknowledge patentability by noting "it is important to get the correct limitations of the claim considered." (Examiner's Answer, p. 9; emphasis added). Specifically, the Examiner's Answer states:

The appellant argues that in an unprogrammed state, the device of Sharpe (nor the device of Chan) is not disabled but rather ignores the broadcast messages. A careful reading of the claim language confirms that ***a disabled state is not claimed***. The appellant appears to use this argument throughout the Brief so ***it is important to get the correct limitations of the claim considered***. (Examiner's Answer, p. 9; emphasis added).

Appellant does **not** and has **not** alleged that a ***"disabled state"*** is claimed, but rather Appellant acknowledges that, in representative claim 35, a ***"shut-off state"*** is claimed.

The Examiner's Answer goes on to state:

The claim (exemplarily claim 35) ***requires*** that the ***RIC unit be enabled*** to couple with the normal circuits ***upon programming***. ***This is not as narrow as being disabled prior to programming as the appellant contends***. (Examiner's Answer, p. 9; emphasis added).

Appellant's claim specifically recites, among other things, "a remote intelligent communication (RIC) unit configured for ***enablingly coupling with the normal utilization circuits***, the RIC unit, including: a control circuit including: ... ***means for inputting the unique identifier into the memory at a point of sale; ...***" (Emphasis added.) The Examiner's Answer "limitation" of ***"requir[ing] that the RIC unit be enabled to couple with the normal circuits upon programming"*** is not to be found within Appellant's representative claim as presently presented.

The Examiner's Answer further states:

The appellant argues that the references do not teach ***inputting a unique identifier*** into the memory ***at the point of sale***. As pointed out in the Final Office Action rejection, sections of Sharpe and Chan are specifically pointed to for teaching this limitation. (Examiner's Answer, p. 10; emphasis added).

Appellant maintains that the Sharpe reference teaches of a code, (coincidentally called a “Receiver Identity Code”-RIC, not Appellant’s “Remote Intelligent Communications”-RIC), that is programmed into devices, for example pagers, to allow the device to sort through all of the messages that are broadcast and then compare the addresses in the broadcast messages with the stored RIC. When a match with a message addressee corresponds to the stored RIC of the device, then the device displays the content of that message for the user to perceive. In an unprogrammed state, the device as taught or suggested in the Sharpe reference is not disabled but rather ignores the broadcast messages.

Similarly, the Chan reference teaches of authentication security improvement by delaying the association with authentication data to a device until at the last possible moment, namely at the point-of-sale. Specifically, the Chan reference teaches “It is preferable that an MS 102 be programmed (or re-programmed) with sensitive authentication information at the point of sale of the MS 102. This will enable the MS to be quickly activated with the authentication feature.” (Col. 7, lines 63-67). Similarly, the Chan device in an unprogrammed state, is not disabled nor is the programming information (e.g., unique identifier) directly related to the enablement and disablement of the normal utilization circuits of the device, as claimed by Appellant.

Accordingly, neither the Sharpe reference nor the Chan reference teach or suggest Appellant’s invention as presently claimed including the claim limitations of “*inputting the unique identifier ... at a point of sale*” which “*in response to receipt of the signal ... of a shut-off command designating the unique identifier*” results in “*entering a shut-off state* and

disabling operative power ... to the normal utilization circuits” as claimed by Appellant in representative claim 35.

The Examiner’s Answer further states:

The appellant alleges that combining the references would be hindsight. As pointed out in the Final Office Action rejection, *motivation to combine the references is clearly articulated*. (Examiner’s Answer, p. 10; emphasis added).

A clear reading of the “clearly articulated” “motivation to combine” from the Final Office Action states:

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the RIC discussed above, be programmed at the point of sale to allow for a *customer specific ID* to be programmed or to prevent the unauthorized use of a “non-purchased” device. (Final Office Action, p. 4; emphasis added.)

As a clarification point, Appellant’s invention, as presently claimed, does not recite a “customer specific ID”.

Appellant respectfully submits that there is no objective teaching or suggestion in the cited references to combine the references. The selective combination of elements is clearly an inappropriate hindsight reconstruction.

The **Isikoff** reference teaches or suggests “object tracking, communication, and management system for a laptop computer or similar device, wherein a beacon or transceiver in the computer implements file integrity or device recovery steps.” (Isikoff Abstract). The computer includes a transmitting beacon card that “may also contain a serial number or other identification mechanism to inform the host compute of its identity”, however, the Isikoff

reference is entirely silent as to any means for associating the “identification mechanism” with the notebook computer or beacon card. (Isikoff, col. 4, lines 55-57). There is no suggestion of any available access to the security features in the Isikoff reference at the time or point of sale.

The **Bishop** reference teaches or suggests an “apparatus and method designed for use with a vehicle that remotely activates an audio warning device prior to disabling the ability for the driver to start the vehicle.” (Bishop Abstract). The vehicle’s unique identifier (e.g., Vehicle Identification Number (VIN)) is applied or associated with the article (e.g. vehicle) at the time of manufacturing and not at a point-of sale. There is no suggestion or motivation to associate the unique identifier with the vehicle at a point of sale rather than at the time of manufacturing.

The **Sharpe** reference teaches or suggests a code that is programmed into pagers to sort through all of the messages that are broadcast to display the correct message for the user. (Sharpe, Col. 3, lines 35-42). While the code, as taught by the Sharpe reference, may be loaded at the point of sale, the code functions as an address for detecting relevant messages rather than code for disabling the device. There is no suggestion or motivation for the code to be associated with a shut-off command or cause the “entering a shut-off state”.

The **Chan** reference teaches or suggests authentication security improvements by delaying the association with authentication data to a device until at the last possible moment, namely at the point-of-sale while allowing quick activation of the authentication feature. (Chan, Col. 7, lines 63-67). The **Chan** reference teaches avoiding a compromise (e.g., security leak) of data for enabling a supplemental feature (e.g., authentication) in a device. There is no suggestion

or motivation for the data to be associated with a shut-off command or cause the “entering a shut-off state”.

Since there is no objective teachings in the cited references or knowledge generally available to one of ordinary skill in the art at the time of the invention that would lead to a combination of the references, the combination as alleged in the Final Office Action could only be a result of impermissible hindsight reconstruction.

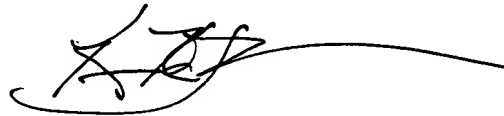
Since the Examiner has not provided a proper motivation to combine the cited references, a *prima facie* case of the obviousness of independent claims 1 and 15 has not been established. Therefore, claims 2-5, 7-15-20, 35 and 36 are allowable in view of the arguments herein as well as the proffered arguments of Appellant’s Appeal Brief.

CONCLUSION

Pursuant to 37 C.F.R. § 41.43(a)(1), Appellants respectfully request acknowledgement of receipt and entry of this Reply Brief.

Appellant respectfully requests the reversal of the rejections of currently pending claims 2-5, 7-25, 35 and 36 for the reasons set forth above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Johanson', with a long horizontal flourish extending to the right.

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Date: April 5, 2006
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